

United States Court of Appeals for the Federal Circuit

July 11, 2022

ERRATA

Appeal Nos. 2021-1131, 2021-1132, 2021-1133, 2021-1134,
2021-1135, 2021-1136, 2021-1137, 2021-1138, 2021-1139,
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**VIRGINIA MILTON AND ARNOLD MILTON, ON
BEHALF OF THEMSELVES AND ALL OTHER
SIMILARLY SITUATED PERSONS, ET AL.,**
Plaintiffs-Appellants

**TRAVELERS EXCESS AND SURPLUS LINES
COMPANY,**
Plaintiff-Appellant

v.

UNITED STATES,
Defendant-Appellee

Decided: June 2, 2022
Precedential Opinion

Please make the following change to page 14 of the panel opinion:

In other words, we leave it for the lower court to consider: (1) whether Appellants have shown that a temporary taking occurred under the test applicable to flooding cases, *Ark. Game & Fish Comm'n v. United States*, 568 U.S. 23, 39 (2012); (2) whether

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Appellants have established causation when considering “the impact of the entirety of government actions that address the relevant risk,” *St. Bernard Par. Gov’t v. United States*, 887 F.3d 1354, 1364 (Fed. Cir. 2018), *cert. denied* 139 S. Ct. 796 (2019); and (3) whether the Government can invoke the necessity doctrine as a defense.

is changed to:

In other words, we leave it for the lower court to consider: (1) whether Appellants have shown that a temporary taking occurred under the test applicable to flooding cases, *Ark. Game & Fish Comm’n v. United States*, 568 U.S. 23, 39 (2012); (2) whether Appellants have shown that a permanent taking occurred; (3) whether Appellants have established causation when considering “the impact of the entirety of government actions that address the relevant risk,” *St. Bernard Par. Gov’t v. United States*, 887 F.3d 1354, 1364 (Fed. Cir. 2018), *cert. denied* 139 S. Ct. 796 (2019); and (4) whether the Government can invoke the necessity doctrine as a defense.